

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAYMOND H. PIERSON, III,
Plaintiff,
v.
SUTTER HEALTH, et al.,
Defendants.

No. 2:20-cv-00124-TLN-KJN

ORDER

Plaintiff Raymond H. Pierson, III (“Plaintiff”), an individual proceeding *pro se*, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 29, 2020, the magistrate judge filed findings and recommendations which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 20.) On July 16, 2020, Plaintiff requested additional time to file his objections, which the magistrate judge granted. (ECF Nos. 27, 28.) On July 17, 2020, Plaintiff filed objections to the findings and recommendations (ECF No. 31), as well as a “motion to invalidate claim of service” (ECF No. 24) — which corresponds to arguments made in the objections. Additionally, Plaintiff has filed multiple motions and requests after the filing of the Findings and Recommendations. These include a request for permission to file a judicial notice request (ECF No. 21), a request for

1 judicial notice (ECF No. 22), a request to file a motion of extended length (ECF No. 23), and two
2 notices of interested parties (ECF Nos. 25, 26). Defendants responded to Plaintiff's objections
3 and opposed the miscellaneous requests. (ECF Nos. 29, 30.) These filings have been considered
4 by the Court.

5 This Court reviews *de novo* those portions of the proposed findings of fact to which
6 objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore*
7 *Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982). As
8 to any portion of the proposed findings of fact to which no objection has been made, the Court
9 assumes its correctness and decides the motions on the applicable law. *See Orand v. United*
10 *States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
11 reviewed *de novo*. *See Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

12 Having carefully reviewed the entire file under the applicable legal standards, the Court
13 finds the Findings and Recommendations to be supported by the record and by the magistrate
14 judge's analysis.

15 Plaintiff's objections fail to address the deficiency in his Complaint noted by the
16 magistrate judge. Namely, that Plaintiff has failed to allege an action under color of state law and
17 therefore cannot bring a 42 U.S.C. § 1983 cause of action against the named Defendants. Based
18 on the allegations in the Complaint, none of the Defendants are governmental actors and therefore
19 no § 1983 claim can be brought against them. Further, Plaintiff cannot cure this defect by
20 pleading additional facts. Therefore, the § 1983 claim — Plaintiff's only federal claim — must
21 be dismissed without leave to amend. *Gardner v. Marino*, 563 F.3d 981, 990 (9th Cir.
22 2009) (finding no abuse of discretion in denying leave to amend when amendment would be
23 futile). The Court declines to exercise supplemental jurisdiction over Plaintiff's causes of action
24 arising under state law. These causes of action are therefore dismissed, but Plaintiff is not
25 foreclosed from refiling these claims in state court.

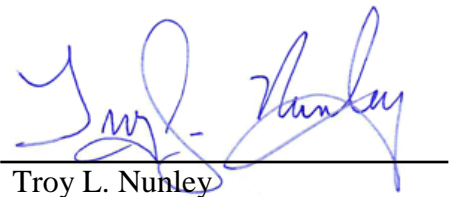
26 Accordingly, IT IS HEREBY ORDERED that:

- 27 1. The Findings and Recommendations filed June 29, 2020 (ECF No. 20), are adopted in
28 full;

2. Defendant's Motion to Dismiss (ECF No. 14) is GRANTED;
3. The Court DISMISSES Plaintiff's § 1983 claims with prejudice;
4. The Court declines to exercise supplemental jurisdiction over Plaintiff's state-law claims, thereby DISMISSING them without prejudice;
5. Leave to amend is DENIED;
6. Plaintiff's miscellaneous motions (ECF Nos 21, 22, 23, and 24) are DENIED as moot; and
7. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

DATED: July 27, 2020



Troy L. Nunley
United States District Judge